

JOSEPH P. RUSSONIELLO (CABN 44332)  
United States Attorney

BRIAN J. STRETCH (CABN 163973)  
Chief, Criminal Division

NATHANAEL M. COUSINS (CABN 177944)  
Assistant United States Attorney

450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102  
Telephone: (415) 436-7368  
Facsimile: (415) 436-7234  
E-Mail: [nat.cousins@usdoj.gov](mailto:nat.cousins@usdoj.gov)

Attorneys for the United States

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

MEJ

3 08 70492

UNITED STATES OF AMERICA,

Plaintiff,

v.

TOMMY THANH PHAM

Defendant.

No. CR

**NOTICE OF PROCEEDINGS ON OUT-  
OF-DISTRICT CRIMINAL CHARGES  
PURSUANT TO RULES 5(c)(2) and (3)  
OF THE FEDERAL RULES OF  
CRIMINAL PROCEDURE**

Please take notice pursuant to Rules 5(c)(2) and (3) of the Federal Rules of Criminal Procedure that on or about July 30, 2008, defendant TOMMY THANH PHAM was arrested based upon an arrest warrant (copy attached as Ex. 1) issued upon a violation of a pretrial release order pending in the District of Minnesota, case number CR 06-0443 ADM, assigned to United States District Court Judge Ann D. Montgomery. In that case, the defendant is charged with four counts of conspiracy and possession with intent to distribute controlled substances (copy of Indictment attached as Ex. 2). On June 22, 2007, the defendant pleaded guilty to Count Two of the Indictment (possession with intent to distribute ecstasy) before absconding.

NOTICE OF PROCEEDINGS

1 The penalties for violation of 21 U.S.C. § 841(a)(1) and (b)(1)(C) are a maximum  
2 imprisonment of 20 years; a fine not to exceed \$1 million; and a term of supervised release of at  
3 least 3 years. If the defendant has a prior felony drug offense, the maximum imprisonment is 30  
4 years; a fine not to exceed \$2,000,000; and a term of supervised release of at least 6 years.

5  
6 DATED: July 30, 2008

Respectfully submitted,

7 JOSEPH P. RUSSONIELLO  
United States Attorney

8   
9 NATHANAEL M. COUSINS  
10 Assistant United States Attorney

11 **CERTIFICATE OF SERVICE**

12 I hereby certify under penalty of perjury, that on July 30, 2008, in the Northern District of  
13 California, I served a copy of the foregoing NOTICE OF PROCEEDINGS, on the Duty Federal  
14 Public Defender, 450 Golden Gate Avenue, San Francisco, by personal delivery.

15  
16 Date: July 30, 2008

17 /s/ Nathanael M. Cousins  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

## EXHIBIT 1

A0 442 (Rev. 5/93) Warrant for Arrest

**UNITED STATES DISTRICT COURT**

**District of Minnesota**

UNITED STATES OF AMERICA

V.

**WARRANT FOR ARREST**

0741 - 0726 - 1179 - B

CASE NUMBER: CR 06-443 ADM/RLE

Tommy Thanh Pham (2)

To: The United States Marshal  
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest: Tommy Thanh Pham

and bring him or her forthwith to the nearest Magistrate Judge to answer an Order of the Court  
charging him or her with:

Violation of Pretrial Release

Ordered by: Ann D. Montgomery, United States District Court Judge.

  
(By) Stacey E. Kulevich, Deputy Clerk

July 26, 2007 at Minneapolis, MN

RECEIVED  
U.S. MARSHALS SERVICE  
MPLS MN  
2007 JUL 27 P 4:01 PM

**RETURN**

This warrant was received and executed with the arrest of the above-named defendant at \_\_\_\_\_

Date Received: \_\_\_\_\_

Date of Arrest: \_\_\_\_\_

\_\_\_\_\_  
Name and Title of Arresting Officer

\_\_\_\_\_  
Signature of Arresting Officer

07/30/2008 08:40 6126645911

USMS WARRANTS DMN

PAGE 02/02

## UNITED STATES DISTRICT COURT

FOR

DISTRICT OF MINNESOTA

FILED UNDER SEAL

U.S.A. vs.: Tommy Thanh Pham Docket No.: 06-CR-443 (02) ADM

## Petition for Action on Conditions of Pretrial Release

COMES NOW Penny G. Wickenheiser Pretrial Services Officer, presenting  
 an official report upon the conduct of defendant Tommy Thanh Pham  
 and who was continued on pretrial release supervision by the Honorable Ann D. Montgomery  
 sitting in the Court at Minneapolis, Minnesota on the 22<sup>nd</sup> day of  
June, 2007, under the following special conditions, in part:

Defendant shall report to Pretrial Services as directed.

RESPECTFULLY PRESENTS PETITION FOR ACTION OF COURT FOR CAUSE AS  
 FOLLOWS: Since defendant's change of plea hearing before Your Honor on June 22, 2007,  
 defendant has not reported to Pretrial Services as directed. In fact, this officer has not heard  
 from defendant since June 19, 2007.

Additionally, U.S. Probation Officer Elizabeth Peters notified this officer that defendant has  
 failed to participate in his court ordered pre-sentence investigation interview.

Based upon this information, this officer believes the defendant has absconded from  
 supervision and his present whereabouts are unknown.

The above conduct violates the defendant's conditions of release pursuant to 18 U.S.C. 3142.

PRAYING THE COURT WILL ORDER that a warrant be issued for defendant's arrest and a  
 hearing be held to show cause why his pretrial release should not be revoked.

## ORDER OF THE COURT

Considered and ordered this 26<sup>th</sup> day  
 of July, 2007, and  
 ordered filed and made a part of records  
 in the above case.

Ann D. Montgomery  
 Honorable Ann D. Montgomery  
 U.S. District Court Judge

I declare under penalty of perjury that  
 the foregoing is true and correct.

Penny G. Wickenheiser  
 Penny G. Wickenheiser  
 U.S. Pretrial Services Officer

Date: July 25, 2007

JUL 26 2007  
 FILED  
 RICHARD D. SLETTER  
 JUDGMENT ENTD  
 DEPUTY CLERK

## EXHIBIT 2

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

UNITED STATES OF AMERICA, ) **INDICTMENT**  
 )  
 Plaintiff, ) (18 U.S.C. § 2)  
 ) (21 U.S.C. § 841(a)(1))  
 v. ) (21 U.S.C. § 841(b)(1)(C))  
 ) (21 U.S.C. § 841(b)(1)(D))  
 1. STEPHANIE DUY NGUYEN AND ) (21 U.S.C. § 846)  
 2. TOMMY THANH PHAM, ) (21 U.S.C. § 853(a)(1))  
 ) (21 U.S.C. § 853(a)(2))  
 Defendants. )

CR06-443 ADM/RLE

THE UNITED STATES GRAND JURY CHARGES THAT:

COUNT 1

(Conspiracy to Distribute and Possess with  
 Intent to Distribute Controlled Substances:  
 Namely, MDMA or "Ecstasy" and Marijuana)

On or before December 3, 2006, in the State and District of  
 Minnesota and elsewhere, the defendants,

**STEPHANIE DUY NGUYEN AND  
 TOMMY THANH PHAM,**

knowingly and intentionally conspired with each other and with  
 other persons, whose names are known and unknown to the grand jury,  
 to distribute and possess with intent to distribute approximately  
 4,863 tablets (1882 grams) of a mixture or substance containing a  
 detectable amount of MDMA, also known as "ecstasy," and a mixture  
 and substance containing a detectable amount of marijuana,  
 controlled substances, in violation of Title 21, United States  
 Code, Sections 841(a)(1), 841(b)(1)(C), and 846.

**SCANNED**

DEC 20 2006

U.S. DISTRICT COURT MPLS

FILED DEC 20 2006

RICHARD D. SLETTEN, CLERK

JUDGMENT ENTERED

DEPUTY CLERK'S INITIALS

U.S. v. Stephanie Duy Nguyen et. al.

**COUNT 2**

(Possession with Intent to Distribute MDMA or "Ecstasy")

On or about December 3, 2006, in the State and District of Minnesota, the defendants,

**STEPHANIE DUY NGUYEN AND  
TOMMY THANH PHAM,**

aiding and abetting and being aided and abetted by each other and others did knowingly and intentionally possess with intent to distribute approximately 4,863 tablets (1,882 grams) of a mixture of MDMA, also known as "ecstasy," a controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(C) and Title 18, United States Code, Section 2.

**COUNT 3**

(Possession with Intent to Distribute Marijuana)

On or about December 3, 2006, in the State and District of Minnesota, the defendants,

**STEPHANIE DUY NGUYEN AND  
TOMMY THANH PHAM,**

aiding and abetting and being aided and abetted by each other and others did knowingly and intentionally possess with intent to distribute approximately 509 grams of a mixture or substance containing a detectable amount of marijuana, a controlled substance, in violation of Title 21, United States Code, Sections



U.S. v. Stephanie Duy Nguyen et. al.

841(a)(1) and 841(b)(1)(D) and Title 18, United States Code, Section 2.

**COUNT 4**

(Possession with Intent to Distribute Marijuana)

On or about December 3, 2006, in the State and District of Minnesota, the defendant,

**TOMMY THANH PHAM,**

did knowingly and intentionally possess with intent to distribute approximately 1,019 grams of a mixture or substance containing a detectable amount of marijuana, a controlled substance, in violation of Title 21, United States Code, Sections 841(a)(1) and 841(b)(1)(D).

**FORFEITURE ALLEGATIONS**

Counts 1-4 of this Indictment are hereby realleged and incorporated as if fully set forth herein by reference, for the purpose of alleging forfeitures pursuant to Title 21, United States Code, Sections 853(a)(1) and 853(a)(2).

As a result of the foregoing offense, the defendants,

**STEPHANIE DUY NGUYEN AND  
TOMMY THANH PHAM,**

shall forfeit to the United States, pursuant to Title 21, United States Code, Sections 853(a)(1) and 853(a)(2), all property constituting or derived from any proceeds the said defendants

U.S. v. Stephanie Duy Nguyen et. al.

obtained directly or indirectly as a result of the violations alleged in Counts 1-4 of the Indictment, and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the violations alleged in Counts 1-4 of this Indictment.

If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

1. cannot be located upon the exercise of due diligence;
2. has been transferred or sold to, or deposited with, a third person;
3. has been placed beyond the jurisdiction of the Court;
4. has been substantially diminished in value; or
5. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of all the defendants' right, title and interest in any other property of said defendants up to the value of the above forfeitable property.

All in violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(C), 846, 853(a)(1), and 853(a)(2).

A TRUE BILL

UNITED STATES ATTORNEY

FOREPERSON